

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROSALEE SMITH
Plaintiff,

v.

**SPECIALIZED LOAN SERVICING,
LLC**
Defendant.

CIVIL ACTION NO. 5:21-cv-396

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331 and 1441(c), Defendant SPECIALIZED LOAN SERVICING, L.L.C. (hereinafter “SLS” or “Defendant”) gives notice and hereby removes this action from the 57th District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division. Removal is based on federal question jurisdiction. In support, Defendant respectfully shows the Court the following:

A. Introduction

1. On or about April 5, 2021, Plaintiff Rosalee Smith (“Plaintiff”) filed Plaintiff’s Original Verified Petition and Application for Temporary Restraining Order and Temporary Injunction (hereinafter “Petition”) in the 57th District Court of Dallas County, Texas styled *Rosalee Smith v. Specialized Loan Servicing, LLC.*, bearing Cause No. 2021CI06430 (the “State Court Action”).

2. Plaintiff sued Defendant for violations of RESPA – Regulation X, violation of Texas Property Code, breach of contract, common law fraud, and promissory estoppel.¹ Plaintiff

¹ See Petition at ¶¶ 17-29, attached as **Exhibit 1**.

requests actual damages, exemplary damages, attorney's fees, costs as well as seeking injunctive relief.²

3. Defendant has not yet been served with process in this lawsuit. Thus, Defendant timely files this notice of removal within the 30-day time dictated by 28 U.S.C. §1446(b).

4. Pursuant to 28 U.S.C. §1446(a), attached hereto as **Exhibit 1** and incorporated by reference is a true and correct copy of the entire file of record with the Court in the 57th District Court of Bexar County, Texas, including all process, pleadings, and orders served.

5. Pursuant to 28 U.S.C. §1446(d), this *Notice of Removal* will be filed with the 57th District Court of Bexar County, Texas, and a copy of this Notice will also be served on Plaintiff, a copy of which is attached as **Exhibit 3**.

6. Defendant files contemporaneously with this Notice, List of All Counsel, a civil cover sheet, a supplemental civil cover sheet and a *Disclosure Statement and Certificate of Interested Parties* that complies with FED. R. CIV. P. 7.1, copies of which are attached hereto as **Exhibits 2, 4 and 5 and 6**.

B. Jurisdiction and Venue

7. This is a civil action over which this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331. This State Court Action may be removed to this Court by Defendant pursuant to 12 C.F.R. § 1024.41.

8. Venue is proper in the United States District Court for the Western District of Texas, San Antonio Division because the State Court Action is pending within this district and division. *See* 28 U.S.C. § 1441(a); *Also see* 28 USC § 124(d)(4).

² *Id.* at ¶¶ 30-33, 36-41 and Section labeled Prayer.

C. Basis for Removal

9. The Court has original jurisdiction over the State Court Action under 12 U.S.C. § 1331 because Plaintiff asserts a cause of action for violation of RESPA, which is codified as 12 U.S.C. § 2605, *et seq.* Section 1331 provides that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 12 U.S.C. § 1331. Accordingly, Defendant may remove this action to this Court pursuant to 28 U.S.C. § 1441 (c).

10. Pursuant to U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff’s additional claims because they derive from the same set of facts forming his claims under 42 U.S.C. § 3604.

D. Conclusion

11. Defendant removes the State Court Action from the 57th District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, so that this Court may assume jurisdiction over the cause as provided by law.

Respectfully submitted,

**BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP**

/s/ Crystal G. Gibson

Crystal G. Gibson

State Bar No. 24027322

SD No. 706039

4004 Belt Line Road, Ste. 100

Addison, Texas 75001

(972) 340-7901

(972) 341-0783 (Facsimile)

CrystalR@bdfgroup.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a copy of *Notice of Removal* was served by the court's electronic filing system or by certified U.S. Mail, return receipt requested, and regular U.S. Mail to the parties below on April 21, 2021.

Via Email: jgh@jghfirm.com

John G. Helstowski
5209 Heritage Ave., Suite 510
Colleyville, Texas 76034
Attorney for Plaintiff

/s/ *Crystal G. Gibson*

Crystal G. Gibson

LIST OF DOCUMENTS ATTACHED

- Exhibit 1 A copy of the State Court Civil Docket Sheet and all pleadings asserting causes of action, all executed process in the case, if any, all answers, if any, and all orders signed by the state court judge, if any;
- Exhibit 2 List of All Counsel of Record;
- Exhibit 3 Notice of Filing of Notice of Removal to Federal Court filed in the 57th District Court of Bexar County, Texas;
- Exhibit 4 Civil Cover Sheet;
- Exhibit 5 Supplemental Civil Cover Sheet
- Exhibit 6 Disclosure Statement and Certificate of Interested Parties.